

Subsidiary Legislation made under ss. 6, 8 and 58.

Butter Regulations, 1988**LN.1988/012***Commencement***1.8.1988**

ARRANGEMENT OF REGULATIONS

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Title and Commencement.

- 1.(1) These regulations may be cited as the Butter Regulations, 1988.
- (2) These regulations shall come into operation on the 1st day of March, 1988.

Interpretation.

- 2.(1) In these regulations, unless the context otherwise requires-

“butter” means the fatty substance intended for sale for human consumption which-

- (a) is usually known as butter,
- (b) is derived exclusively from cow’s milk the pH of which may have been adjusted by the addition of an alkali carbonate, and
- (c) may contain one or more of the following substances, namely annatto, alpha-, beta-, and gamma-carotene, synthetic beta carotene or turmeric, inasmuch as their use is permitted by the Colouring Matter in Food Regulations 1980, as amended, or salt or lactic acid cultures;

and includes whey butter;

“container” includes any form of packaging of food for sale as a single item, whether by way of wholly or partly enclosing the food or by way of attaching the food to some other article, and in particular includes a wrapper or confining band;

“food” means food intended for sale for human consumption and includes drink, chewing gum and other products of a like nature and use, and articles and substances used as ingredients in the preparation of food or drink or of such products, but does not include-

- (a) water, live animals or birds,
- (b) fodder or feeding stuffs for animals, birds or fish, or
- (c) articles or substances used only as drugs;

“human consumption” includes use in the preparation of food for human consumption;

“the Act” means the Food and Drugs Act;

“sell” includes offer or expose for sale or have in possession for sale; and ‘sale’ and ‘sold’ shall be construed accordingly;

“sold by retail” means sold to a person buying otherwise than for the purpose of re-sale;

AND other expressions have the same meaning as in the Act.

(2) All percentages mentioned in these regulations are percentages calculated by weight and, unless a contrary intention is expressed, are calculated on the weight of the butter as sold.

(3) Any reference in these regulations to a label borne on a container shall be construed as including a reference to any legible marking on the container however effected.

(4) For the purposes of these regulations, the supply of food, otherwise than by sale, at, in or from any place where food is supplied in the course of business shall be deemed to be a sale of that food, and references to purchasing and purchaser shall be construed accordingly.

Exemptions.

3. The provisions of these regulations shall not apply in relation to—

- (a) any butter sold for exportation to any place outside Gibraltar;
- (b) any butter sold to a manufacturer for the purposes of his manufacturing business;

and the provisions of regulations 4 and 5 of these regulations shall not apply in relation to any butter sold to a caterer for the purposes of his catering business.

Composition of butter.

4.(1) Subject to the provisions of this regulation, and butter sold, consigned or delivered, shall contain—

- (a) not less than 80 per cent. milk fat,
- (b) not more than 2 per cent. milk solids other than fat, and
- (c) not more than 16 per cent. water:

Provided that any such butter may contain less than 80 per cent but not less than 78 per cent milk fat—

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- (i) if the amount by which the milk fat content percentage falls below 80 per cent., does not exceed the amount by which the percentage of salt in such butter exceeds 3 per cent; and
- (ii) if the words 'salted butter' appear clearly and legibly as or as part of or in close proximity to its name on a label on the container of such butter or, in the case of any butter sold by retail otherwise than in a container, on a ticket placed in immediate proximity to such butter.

(2) No person shall sell, consign or deliver, as the case may be, any butter in contravention of this regulation.

General requirements as to composition and description.

5.(1) No person shall sell any food under such a description as to lead an intending purchaser to believe that he is purchasing any butter for which compositional requirements are specified in these regulations if the food does not comply with the appropriate requirements as to composition set out in these regulations in relation to that butter.

(2) Where a person sells any food to a purchaser in response to a request for any kind of butter for which compositional requirements are specified in these regulations, he shall be deemed to sell butter of that kind and conforming to the compositional requirements for butter of that kind which are specified in these regulations in relation to that kind of butter unless he clearly notifies the purchaser at the time of sale that the food is not of that kind.

Labelling and advertisement of butter.

6.(1) Subject to the provisions of this regulation, no person shall give with any butter sold by him, or display with any butter offered or exposed by him for sale any label, whether attached to or printed on a container or not, or publish or be party to the publication of any advertisement for butter

- (a) in the case of such label or advertisement bearing or including, as the case may be, the word 'butter', unless the butter complies with the compositional requirements specified in regulation 4 of these regulations;
- (b) in the case of butter which does not contain any added salt unless such label or advertisement bears or includes, as the case may be, conspicuously and legibly, the words 'unsalted butter';
- (c) in the case of butter to which the proviso to regulation 4(1) of these regulations applies, unless such label or advertisement bears or includes, as the case may be, conspicuously and legibly, the words 'salted butter'.

(2) Paragraph (1)(a) of this regulation shall not apply to any label or advertisement upon or in which, as the case may be, the word 'butter' is used

- (a) to describe any dehydrated butter, butter fat, or butter oil which is used as an ingredient of the food to which the label or advertisement refers, if such dehydrated butter, butter fat or butter oil, as the case may be, complies with the compositional requirements for butter specified in regulation 4 of these regulations;
- (b) in such a context as to indicate clearly that butter is used as an ingredient of the food to which the label or advertisement refers, if such butter complies with the compositional requirements specified in regulation 4 of these regulations; or
- (c) in such a context as to indicate clearly that the word 'butter' does not refer to the presence in food of butter within the meaning of that word as defined in regulation 2(1) of these regulations.

Penalties.

7. If any person contravenes or fails to comply with any of the foregoing provisions of these regulations he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000.

Defences.

8.(1) In any proceedings for an offence against these regulations in relation to the publication of an advertisement, it shall be a defence for the defendant to prove that being a person whose business it is to publish or arrange for the publication of advertisements, he received the advertisement for publication in the ordinary course of business.

(2) In any proceedings against the manufacturer or importer of butter for an offence against these regulations in relation to the publication of an advertisement, it shall rest on the defendant to prove that he did not publish and was not a party to the publication of, the advertisement.

Application of various sections of the Act.

9. Section 46(2) and (3) (which relate to prosecutions), 47(1) and (2) (which relate to evidence of analysis), 49 (which relates to the power of a court to require analysis by the Government Chemist in the United Kingdom), 50 (which relates to a contravention due to some person other than the person charged), 51(2) (which relates to the conditions under which a warranty may be pleaded as a defence) and 52 (which relates to offences in relation to warranties and certificates of analysis) of the Act shall apply for the purposes of these regulations as if references therein to proceedings, or a prosecution, under or taken or brought under the Act

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included references to proceedings, or a prosecution, as the case may be, taken or brought for an offence under these regulations and as if the reference in the said Section 49 to subsection (3) of Section 46 included a reference to that subsection as applied by these regulations.

Revocation

10. The Butter and Margarine Regulations are hereby revoked as from the date of coming into operation of these Regulations.